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OFFICE OF PETITIONS

DECISION ON PETITION

In re Application of
Yakov Kamen
Application No. 09/909,630
Filed: July 19, 2001
Attorney Docket No. ISURFTV146

This is a decision on the petition under 37 CFR 1.137(a), filed November 9, 2005, which is being treated as a petition to withdraw the holding of abandonment for the above-identified application.

This application was held abandoned for failure to respond timely to the nonfinal Office Action mailed on July 19, 2004, which set a three-month shortened statutory period for reply. In the apparent absence of a timely filed response, the application was held abandoned and a Notice of Abandonment was mailed on September 25, 2005.

In the present petition, petitioner states that on January 24, 2005 (certificate of mailing dated January 19, 2005), petitioner submitted a reply in the form of an amendment, a request for an extension of time for response within the third month, and a check in the amount of \$1,020.00 for the extension of time fee. Accompanying the petition is a copy of a Transmittal Form, bearing a certificate of mailing dated January 19, 2005, a "Petition For Extension Of Time Under 37 CFR 1.136(a)," Amendment B, and a copy of the return, itemized postcard receipt bearing an OIPE date stamp of January 24, 2005.

Pursuant to 37 CFR 1.8:

(b) In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the Patent and Trademark Office, and the application is held to be abandoned or the proceeding dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

(1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;

(2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and

(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

(c) The Office may require additional evidence to determine if the correspondence was timely filed.

After reviewing the record and the papers submitted on petition, the response is considered timely filed on January 19, 2005. Accordingly, the petition is **granted**. The Notice of Abandonment is hereby withdrawn.¹ The application is restored to pending status in view of the fact that a response was timely submitted on January 19, 2005.

The matter is being referred to the Technology Center Art Unit 2676.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
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Office of Petitions

¹ The Transaction History in the Image File Wrapper Database indicates that the Office, *sua sponte*, withdrew the holding of abandonment and mailed petitioner a Notice of Rescinded Abandonment on October 21, 2005. Unfortunately, a copy of the Notice has not been located in the Database. Nevertheless, the holding of abandonment is hereby withdrawn by this decision and the application is restored to pending status.